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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,976	11/04/2003	David L. Rhodes	486.1003US	4497
23280	7590	01/07/2008		
Davidson, Davidson & Kappel, LLC			EXAMINER	
485 17th Avenue			OCHOA, JUAN CARLOS	
14th Floor				
New York, NY 10018			ART UNIT	PAPER NUMBER
			2123	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/700,976

Applicant(s)

RHODES, DAVID L.

Examiner

Juan C. Ochoa

Art Unit

2123

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16, 18-27 and 31-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16, 18-27 and 31-34 is/are rejected.
- 7) ☐ Claim(s) 7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. The amendment filed 10/31/07 has been received and considered. Claims 1–16, 18–27, and 31–34 are presented for examination.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on *** has been entered.

Claim Interpretation

3. Office personnel are to give claims their "broadest reasonable interpretation" in light of the supporting disclosure. In re Morris, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim are not read into the claim. In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969). See *also In re Zletz, 893 F.2d 319, 321-22, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989) ("During patent examination the pending claims must be interpreted as broadly as their terms reasonably allow").... The reason is simply that during patent prosecution when claims can be amended, ambiguities should be recognized, scope and breadth of language explored, and clarification imposed.... An

essential purpose of patent examination is to fashion claims that are precise, clear, correct, and unambiguous. Only in this way can uncertainties of claim scope be removed, as much as possible, during the administrative process.

4. Claims recite "network application codes". The specification defines "network application codes" as "application level codes (such as FTP or TELNET), etc" (see page 2, [002], lines 6–7); "network application codes (i.e., those that communicate over a network)" (see page 3, [004], lines 3–4); and "networked application code (herein called simply application code)" (see page 4, [006], lines 4–5). The claims reciting "network application codes" were interpreted according to these definitions.

Specification

5. The disclosure is objected to because it contains an embedded hyperlink and/or other form of browser-executable code, see page 8, line 6. Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP § 608.01.

Claim Objections

6. Claim 7 is objected to because of the following informalities:

7. Claim 7 line 2 includes the misspelled term "utilize". Examiner interprets as "utilizes" for examination purposes.

8. Appropriate correction is required.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

11. Claims 1–16, 18–27, and 31–34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maurer, Max M., (Maurer hereinafter), U.S. Patent 7,006,963, taken in view of Bleier et al. (Bleier hereinafter), U.S. Patent 6,832,184.

12. As to claim 1, Maurer discloses a method for virtually simulating actual networked applications within a network simulation, comprising the steps of: providing a networked application code and a client interface (see “networked application code” as “Lotus Notes” in col. 8, lines 31–47) which communicates with the network application code; providing a network simulator that simulates a network of communicating nodes; providing a server that interfaces to the network simulator, the server comprising functionality for establishment of a bidirectional mapping of communications of said networked application code to a simulated node in the network simulator, the client

interface being aware of the server and communicating with the server over a network, the network simulator being able to interoperate with the server (see col. 10, lines 1–53) such that communication to the networked application code from the server appears to originate from the simulated node to which the networked application code is mapped (see “By enabling simulation of clients each having a unique identity, it is possible to provide a simulation that is indistinguishable from real client traffic” in col. 7, lines 15–20 and col. 7, line 66 to col. 8, line 2); and modifying, via the one or more client interfaces and the server, the network application code by removing or inserting messages to or from simulated nodes (see col. 6, lines 45–63).

13. While Maurer discloses a networked application code and a client interface, Maurer fails to **specifically** disclose a client interface which communicates with the network application code.

14. Bleier discloses a client interface which communicates with the network application code (see col. 7, lines 53–61).

15. Maurer and Bleier are analogous art because they are both related to computer networks simulation.

16. Therefore, it would have been obvious to one of ordinary skill in this art at the time of invention by applicant to utilize the simulation tool of Bleier in the computer system of Maurer because Bleier simulates multiple clients in a client/server environment (see col. 6, lines 65–67), and as a result, Bleier reports the following improvements over his prior art: a scriptable simulator able to check responses, a

simulator centrally and dynamically controllable, and simulated clients indistinguishable from real clients (see col. 6, lines 44–59).

17. As to claim 2, Maurer discloses a method for virtually simulating actual networked applications within a network simulation, comprising the steps of: initiating a server to interface to a network simulator; initiating a client interface to interface with the server over a network, bridging the networked application code (see “networked application code” as “Lotus Notes” in col. 8, lines 31–47) via the client interface so that the network application code can communicate with the server (see col. 10, lines 1–53); mapping the communications of the networked application code to a simulated node in the simulator, communication from the networked application code now appearing to originate from the simulated node (see “By enabling simulation of clients each having a unique identity, it is possible to provide a simulation that is indistinguishable from real client traffic” in col. 7, lines 15–20 and col. 7, line 66 to col. 8, line 2); and insertion of and extraction of messages or packets from or to application code to simulated node via the one or more clients and servers (see col. 7, lines 23–25 and/or col. 11, lines 10–27). Bleier discloses the client interface communicating with a networked application code (see col. 7, lines 53–61).

18. As to claim 3, Maurer discloses a method wherein the step of initiating a server further comprises the step of establishing bidirectional mapping of the networked application code to the simulated nodes in the network simulator (see col. 6, lines 45–54).

19. As to claim 4, Maurer discloses a method wherein the network simulator is IP based (see col. 11, lines 10–18).

20. As to claim 5, Maurer discloses a method wherein the network simulator further comprises an upper layer protocol (see col. 11, lines 10–18).

21. As to claim 6, Maurer discloses a method wherein the protocol is selected from the group consisting of TCP (see col. 11, lines 10–18) and UDP upper layer protocols.

22. As to claim 7, Maurer discloses a method wherein the application codes and network application code further utilize a communication styles and wherein communication style is selected from the group consisting of point-to-point, anycast, multicast and broadcast (see “point-to-point” in col. 2, lines 20–37 and col. 6, lines 16–19).

23. As to claim 8, Bleier discloses a method wherein the network simulator comprises a plurality of network simulators (see col. 7, lines 9–15).

24. As to claim 9, Bleier discloses a method wherein the server comprises a plurality of servers (see col. 7, lines 9–15).

25. As to claim 10, Maurer discloses a method wherein the mapping of application code to the simulated node is dynamic (see col. 12, lines 1–5).

26. As to claim 11, Maurer discloses a method wherein the network simulator executes in real-time (see col. 6, lines 45–54).

27. As to claim 12, Bleier discloses a method wherein the execution time of the network simulator is configurable (see col. 11, lines 53–57).

28. As to claim 13, Maurer discloses a method wherein the client interface and the server are implemented on separate hardware (see Fig. 13).

29. As to claim 14, Bleier discloses a method wherein the networked application code is executed in parallel over a distributed system (see col. 7, lines 53–61).

30. As to claim 15, Maurer discloses a method wherein the network simulator is IP based (see col. 11, lines 10–18).

31. As to claim 16, Maurer discloses a method wherein the network simulator further comprises a protocol (see col. 11, lines 10–18).

32. As to claim 18, Maurer discloses a method wherein the application code further utilizes a communication style, and wherein the communication style is selected from the group consisting of point-to-point, anycast, multicast and broadcast (see “point-to-point” in col. 2, lines 20–37 and col. 6, lines 16–19).

33. As to claim 19, Bleier discloses a method wherein the network simulator comprises a plurality of network simulators (see col. 7, lines 9–15).

34. As to claim 20, Bleier discloses a method wherein the one or more servers comprise a plurality of servers (see col. 7, lines 9–15).

35. As to claim 21, Maurer discloses a method wherein the mapping of application code to simulated network node is dynamic (see col. 12, lines 1–5).

36. As to claim 22, Maurer discloses a method wherein the network simulator executes in real-time (see col. 6, lines 45–54).

37. As to claim 23, Bleier discloses a method wherein the execution time of the network simulator is configurable (see col. 11, lines 53–57).

38. As to claim 24, Maurer discloses a method wherein the client interface and the server are implemented on separate hardware (see Fig. 13).

39. As to claim 25, Bleier discloses a method wherein the networked application code is executed in parallel over a distributed system (see col. 7, lines 53–61).

40. As to claim 26, Maurer discloses a method wherein the server is a plug in to the simulator (see Abstract, lines 9–14 and col. 6, lines 20–29).

41. As to claim 27, Maurer discloses a method wherein the server is a plug in to the simulator (see Abstract, lines 9–14 and col. 6, lines 20–29).

42. As to claim 31, Maurer discloses a method wherein the client interface includes a plurality of client interfaces and the networked application code includes a plurality of networked application codes, each client interface associated with at least one of the plurality of networked application codes (see col. 6, line 65 to col. 7, line 1).

43. As to claim 32, Maurer discloses a method wherein the client interface includes a plurality of client interfaces and the networked application code includes a plurality of networked application codes, each client interface associated with at least one of the plurality of networked application codes (see col. 6, line 65 to col. 7, line 1).

44. As to claim 33, Maurer discloses a computer system for virtually simulating actual networked applications within a network simulation comprising: a plurality of clients, each client having a client interface (see col. 8, lines 31–47); a network simulator including a plurality of simulated nodes; a server, the server having functionality for interfacing to the network simulator; and wherein each client communicates with the server over a network, and wherein each client executes the networked application

code and the client interface so that the networked application code can communicate with the server (see col. 10, lines 1–53), and wherein the client interface maps the networked application code to one of the simulated nodes so that communication from the networked application code now appears to originate from the simulated node (see “By enabling simulation of clients each having a unique identity, it is possible to provide a simulation that is indistinguishable from real client traffic” in col. 7, lines 15–20 and col. 7, line 66 to col. 8, line 2), and inserts and extracts messages or packets from the networked application code (see col. 7, lines 23–25 and/or col. 11, lines 10–27). Bleier discloses the client interface communicating with an associated networked application code executing on the client (see col. 7, lines 53–61).

45. As to claim 34, Maurer discloses a system wherein server has functionality for providing message or packet transfer among simulated nodes and/or networked application codes (see col. 10, lines 1–21).

Response to Arguments

46. Applicant's arguments filed 10/31/07 have been fully considered, but they are not persuasive.

47. Regarding the specification objections, deficiencies remain.

48. Regarding the claim objections, the amendment corrected all deficiencies and those objections are withdrawn.

49. Regarding the rejections under 102 and 103, the amendment circumvented all rejections and the rejections are withdrawn.

Conclusion

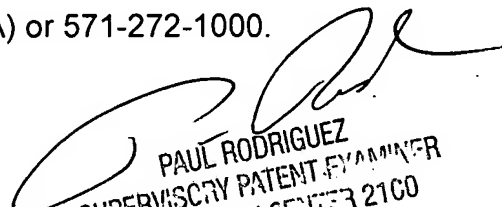
50. Examiner would like to point out that any reference to specific figures, columns and lines should not be considered limiting in any way, the entire reference is considered to provide disclosure relating to the claimed invention.

51. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Juan C. Ochoa whose telephone number is (571) 272-2625. The examiner can normally be reached on 7:30AM - 4:00 PM.

52. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Rodriguez can be reached on (571) 272-3753. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

53. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

jo 12/27/07


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